

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

FILED

AUG 05 2010

**PATRICK E. DUFFY, CLERK
By DEPUTY CLERK, MISSOULA**

UNITED STATES OF AMERICA,

CR 10-22-M-DWM

Plaintiff,

vs.

**FINDINGS & RECOMMENDATION
CONCERNING PLEA**

DAVID PALUMBO,

Defendant.

The Defendant, by consent, has appeared before me under Fed. R. Crim. P. 11 and has entered pleas of guilty to Counts II and III of the Indictment filed against him. Count II charges Defendant with possession with intent to Distribute Cocaine, and Count III charges him with possession of a firearm in furtherance of a drug trafficking crime. In exchange for Defendant's pleas, the United States has agreed to dismiss Count I of the Indictment.

After examining the Defendant under oath, I have made the following determinations:

1. That the Defendant is fully competent and capable of entering informed and voluntary pleas,
2. That the Defendant is aware of the nature of the charges against him and

consequences of pleading guilty to the charges,

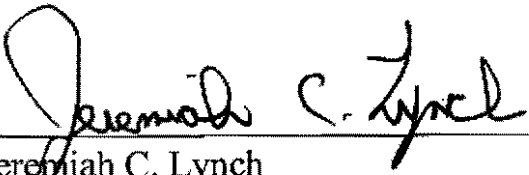
3. That the Defendant fully understands his constitutional rights, and the extent to which he is waiving those rights, by pleading guilty, and

4. That the pleas of guilty are knowing and voluntary pleas, supported by an independent basis in fact sufficient to prove each of the essential elements of the offenses charged.

The Court further concludes that the Defendant had adequate time to review the Plea Agreement with counsel, that he fully understands each and every provision of the agreement and that all of the statements in the Plea Agreement are true. Therefore, I recommend that the Defendant be adjudged guilty of Counts II and III of the Indictment, and that sentence be imposed. I further recommend that Count I of the Indictment be dismissed.

This report is forwarded with the recommendation that the Court defer a decision regarding acceptance until the Court has reviewed the Plea Agreement and the presentence report.

DATED this 5th day of August, 2010.


Jeremiah C. Lynch
United States Magistrate Judge